
(2001) 08 JH CK 0063
In the Jharkhand High Court
Case No : CWJC No. 141 of 2000 (R)

Ramdhan Bedia

APPELLANT

Vs

Commissioner North Chhota Nagpur Division and Others

RESPONDENT

Date of Decision : 21-08-2001

Acts Referred:

Chotanagpur Tenancy Act, 1908 — Section 46(4)
Constitution of India, 1950 — Article 226

Citation : (2001) 08 JH CK 0063

Hon'ble Judges : M.Y. Eqbal, J

Bench : Single Bench

Advocate : V. Shivnath, for the Appellant; A.N. Deo and JC to GP2, for the Respondent

Final Decision : Dismissed

Judgement

M.Y. Eqbal, J.—Heard Mr. V. Shivnath, learned counsel for the petitioner. Mr. A.N. Deo, learned counsel for the respondent No. 5 and learned JC to GP 2 and with their consent this writ application is disposed of at this stage.

2. In this writ application the petitioner has prayed for quashing the order dated 19.7.1999 passed by Commissioner. North Chotanagpur Division, Hazaribagh in Revision No. 168/94 and the order dated 6.10.1993 passed by the Land Reforms Deputy Collector in Land Registration Case No. 19/87. Copies of these orders have been annexed as Annexures 9 and 7 respectively to the writ application.

3. The petitioner's case is that the land pertaining to Khata No. 72, Plot No. 1134 total area 30 decimals was recorded in the name of Bigan Bedia Kartik Bedia, sons of Nanhak Bedia having one share each and Mst. Guhma Bedia, wife of Guja Bedia having one share. It is stated that there had been a family partition of the lands of Khata No. 72, whereby portion of plot No. 1134 was allotted to Kartika Bedia and Bigan Bedia and another 15 decimals land of plot No. 1134 was allotted to Guhma Bedia. Mst. Guhma Bedia intended to transfer the aforementioned 15 decimals land in favour of her daughter Chandra Bedia &

Chandra Devi, who was married with one Hujata Bedia and for that purpose, a permission case was filed being Misc. Case No. 301/78-79 before the Deputy Collector, Land Reforms, Ramgarh. During the pendency of the said application one of the recorded tenant Kartik Bedia died issueless. It is stated that Bigan Bedia became the raiyat of half portion of plot No. 1134 given in partition to Kartik Bedia. Petitioner's further case is that in the said permission case permission was accorded by the Deputy Collector-cum-Special Officer in terms of the order dated 16.4.1979 for transfer of land by way of gift in favour of Chandra Devi. However, the sale deed was not presented and the registration could not be effected. It is alleged that after the death of Guhma Bedia, her daughter Chandra Devi alongwith her husband came in possession of the land and has been paying rent to the State of Bihar. The petitioner's further case is that his mother Chandra Devi sold and transferred a portion of the land of plot No. 1134 to one Somri Devi. It is stated that in 1992 petitioner came to know that the respondent No. 2, on an application made by respondent No. 5, Chhedi Bedia against one Khirdhar Gope, had passed an order for reiteration of 15 decimals of land of plot No. 1134 in Restoration Case No. 19/87. The petitioner, thereafter, filed an application before the Deputy Collector asserting that he was in actual possession of plot No. 1134 and Sri Chhedi Bedia has no concern with the land and the order of restoration obtained by Chhedi Bedia was illegal and without jurisdiction. The Deputy Collector, however, directed the Circle Officer to effect delivery of possession according to the order of restoration passed u/s 46(4)(a) of the CNT Act. The petitioner then moved this Court by filing CWJC No. 2538/93(R) which was disposed of by order dated 27.8.1993. The petitioner then again moved before the Land Reforms Deputy Collector making a fresh application for being impleaded as a party and for hearing the case on merit. The Land Reforms Deputy Collector, by order dated 6.10.1992 ordered for restoration of land in favour of Chhedi Bedia. The petitioner aggrieved by the said order, moved before the Additional Collector, Hazaribagh in Restoration Appeal No. 17/93. The said appeal was finally heard and disposed of on 1.8.1994 holding that the Revenue Court was not competent to decide the question of title in a summary proceeding u/s 46(4)(a) of the Act. The respondent No. 4, aggrieved by the said order, moved the Commissioner by filing restoration revision No. 168/94. The Commissioner, however, after hearing the parties, allowed the revision application by order dated 19.7.1999 and set aside the order passed by the Additional Collector and restored the order passed by the Land Reforms Deputy Collector in Restoration Case No. 19/87.

4. A counter affidavit has been filed by the respondent No. 4 stating, inter alia, that the recorded raiyat Guhma Bedia had obtained permission to transfer the land to her daughter Smt. Chandra Devi but transfer could not be effected. There was a land restoration case between Chhedi Bedia and Khirdhar Gope in which order was passed by the respondent No. 2 for restoration of land and the same has become final.

5. No counter affidavit has been filed on behalf of the respondent No. 5 and Mr.

A.N. Deo, learned counsel appearing on behalf of the said respondent, submitted that there is no need of filing counter affidavit.

6. The admitted facts are that the land in question was recorded in the name of Bigan Bedia, Kartik Bedia and Mst. Guhma Bedia having one share each. Chandra Devi is the daughter of Guhma Bedia and petitioner is the son of Chandra Bedia. During her life time Mst. Guhma Beida intended to transfer 15 decimals of land of plot No. 1134 in favour of her daughter Chandra Bedia and permission to that effect was also obtained but transfer could not be effected by executing a registered document. Consequently title could not be passed to Chandra Devi. Mst. Guhma Bedia, however, sold 15 decimals of land of plot No. 1134 to one Semri Devi. In the meantime. Mst. Guhma Bedia died. In 1987 Chhedi Bedia filed an application against one Khiredhar Gope for restoration of land of plot No 1134 on the ground that said Khiredhar Gope forcefully occupied a portion of the land on the basis of sada hukumnama and get a sale deed executed in favour of his wife Mst. Semri Devi through Chandra Devi. The said restoration case was ultimately allowed by the Commissioner, North Chotanagpur Division in Restoration Revision No. 168/94.

7. The Commissioner, North Chotanagpur Division, Hazaribagh, in his order dated 19.7.1999 has taken into consideration the entire facts of the case and has made certain observation with regard to the law of inheritance prevailing in the family of Chhedi Bedia and came to the conclusion that there is no illegality in the order of restoration passed by the respondent-authorities. I do not find any reason to interfere with the said order. The Commissioner has rightly observed that any of the aggrieved party may seek remedy before a civil Court of competent jurisdiction for adjudication of title. In the instant case indeed there is a dispute of inheritance by and between the heirs of Chhedi Bedia on the one hand and the heirs of Guhma Bedia on the other, and such dispute cannot be adjudicated in a summary proceeding. I also observe that the party shall be at liberty to get their right, title and interest adjudicated by a civil Court of competent jurisdiction and the civil Court shall not be prejudiced by any of the findings recorded by the respondent authorities.

8. With the aforesaid observation, this writ application is dismissed.

9. Writ dismissed.